UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,739	07/01/2003	Peter J. Dehlinger	33293-8012.US00	5731

22918 7590 02/06/2007	EXAMINER
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P.O. BOX 2168	
MENLO PARK, CA 94026	ART UNIT / PAPER NUMBER
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SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _01 July 2003_.

2a) ☐ This action is FINAL.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-18_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-18_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _17 November 2003_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-18 are pending in this Office Action.

Double Patenting

2.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3.   Claims 1-18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-25 of U.S. Patent No. 7,003,516.

Although the conflicting claims are not identical, they are not patentably distinct from each other because scope of the claims are similar, changing descriptive language would be obvious to one of ordinary skill in the art with out any criticality.

4.   Claims 1-18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 7,024,408.

Although the conflicting claims are not identical, they are not patentably distinct from

each other because the claimed language of claims 1-18 merely broadens the claimed

subject matter of claims 1-25 of the patent 7,024,408.

It has been held that the omission of an element and its function is an obvious

expedient if the remaining elements perform the same function as before. In re Karlson,

136 USPQ 184 (CCPA). Also note Ex parte Rainu, 168 USPQ 375 (Bd. App. 1969) ; the

omission of a reference element whose function is not needed would be obvious to one

skilled in the art.

5.   Claims 1-18 are rejected on the ground of nonstatutory obviousness-type double

patenting as being unpatentable over claims 1-26 of U.S. Patent No. 7,016,895.

Although the conflicting claims are not identical, they are not patentably distinct from

each other because the claimed language of claims 1-18 merely broadens the claimed

subject matter of claims 1-26 of the patent 7,016,895.

6.   Claims 1-18 are provisionally rejected on the ground of nonstatutory

obviousness-type double patenting as being unpatentable over claims 1-26 of

copending Application No.10/612,732. Although the conflicting claims are not identical,

they are not patentably distinct from each other because changing descriptive language

would be obvious to one of ordinary skill in the art with out any criticality.

This is a provisional obviousness-type double patenting rejection because the

conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8.   Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin et

al. (US 6,675,159).

As per claim 1, Lin teaches, "computer-executed method for matching a target

document in the form of a digitally encoded natural-language text with a plurality of

sample texts", comprising the steps of:

"(a) for each of a plurality of terms selected from one of (i) non-generic words in

the document, (ii) proximately arranged word groups in the document, and (iii) a

combination of (i) and (ii), determining a selectivity value calculated as the frequency of

occurrence of that term in a library of texts in one field, relative to the frequency of

occurrence of the same term in one or more other libraries of texts in one or more other

fields, respectively" (col. 14, line 22 to col. 49, stop word filter remove non-generic

words and col. 20, lines 41-59), and

"(b) representing the document as a vector of terms, Where the coefficient

assigned to each term is a function of the selectivity value determined for that term" (col.

18, lines 9-51),

"(c) determining for each of a plurality of sample texts, a match score related to the number of terms present in or derived from that text that match those in the target document, and (d) selecting one or more of the sample texts having the highest match scores" (col. 20, lines 41-51).

As per claim 2, Lin teaches, "wherein the sample texts are texts in the libraries of texts from which the selectivity values of target terms are determined" (col. 20, lines 41-51).

As per claim 3, Lin teaches, "wherein the selectivity value associated with a term in the document is related to the greatest selectivity value determined with respect to each of a plurality N>2 of libraries of texts in different fields" (col. 20, lines 41-51).

As per claim 4, Lin teaches, "wherein the selectivity value assigned to a term is a root function of the frequency of occurrence of that term in said library, relative to the frequency of occurrence of the same term in one or more other libraries of texts in one or more other fields, respectively, and the match score is weighted by the selectivity values of the matching terms" (col. 20, lines 41-65).

As per claim 5, Lin teaches, "wherein the root function is between 2, the square root function, and 3, the cube root function".

As per claim 6, Lin teaches, "wherein only terms having a selectivity value above a predetermined threshold are included in the vector" (col. 19, lines 12-27).

As per claim 7, Lin teaches "wherein the terms include words in the document, and the coefficient assigned to each word in the vector is also related to the inverse

document frequency of that word in one or more of said libraries of texts" (col. 18, lines 9-51).

As per claim 8, Lin teaches "wherein the coefficient assigned to each word in the vector is the product of a function of the selectivity value and the inverse document frequency of that word" (col. 18, lines 9-51).

As per claim 9, Lin teaches "wherein the terms include words in the document, and step (a) includes (i) accessing a database of word records, where each record includes text identifiers of the library texts that contain that word, and associated library identifiers for each text, and (ii) using the identified text and library identifiers to calculate one or more selectivity values for that word" (col. 17, lines 7-25).

As per claim 10, Lin teaches "wherein carrying out the step of determining match scores includes (i) accessing said database of word records to identify library texts associated with each descriptive word in the target text, and (ii) from the identified texts recorded in step (i), determining text match score based on the number of descriptive words in that text weighted by the selectivity values of the matching words" (col. 20, lines 41-59).

As per claim 11, Lin teaches "wherein the terms include word groups in the document, and said database further includes, for each word record, word-position identifiers, and wherein step (a) as applied to word groups includes (i) accessing said database to identify texts and associated library an word-position identifiers associated with that word group, (ii) from the identified texts, library identifiers, and word-position

identifiers recorded in step and (i) determining one or more selectivity values for that word group" (col. 18, lines 9-59).

As per claim 12, Lin teaches "wherein carrying out the step of determining match scores includes (i) recording the texts associated with each descriptive word group, and (ii) determining a text match score based, at least in part, on number of descriptive word groups in a text, weighted by the selectivity values of such words groups" (col. 18, lines 9-59).

As per claims 13-18, they are interpreted and thus rejected for the same reason set forth in the rejection of claims 1-12, because they have similar scope.

Contact Information

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(571) 272-7599**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at **(571) 272-7602**.

Any response to this action should be mailed to:

> **Commissioner for Patents**
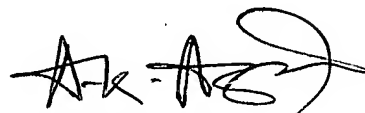>
> **P.O. Box 1450**
>
> **Alexandria, VA 22313-1450**

Or faxed to: **(571) 273-8300.**

Hand-delivered responses should be brought to **401 Dulany Street, Alexandria, VA-22314** (Customer Service Window).

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

February 3, 2007

Abul K. Azad
Primary Examiner
Art Unit 2626